

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**Boards of Trustees of Ohio
Laborers' Fringe Benefit
Programs,**

Case No. 2:10-cv-652

Plaintiffs,

JUDGE EDMUND A. SARGUS, JR.

v.

Magistrate Judge Kemp

Toledo Caisson Corporation,

Defendant.

OPINION AND ORDER

On February 1, 2011, the Magistrate Judge issued a Report and Recommendation concerning plaintiffs' motion to hold defendant and its agent in contempt. That Report and Recommendation recommended that plaintiffs be allowed to amend their complaint to seek the balance of unpaid contributions, liquidated damages, interest, and attorneys' fees involved in this case, a sum of \$5,744.73. It also recommended the entry of a supplemental judgment in that amount (a default judgment had already been entered for other sums owed).


On February 28, 2011, defendant, through a letter signed by its fringe benefit coordinator, offered to pay the unpaid contributions plus one-half of the damages and legal fees. On April 8, 2011, plaintiff filed a response to that letter, indicating, among other things, that plaintiffs' counsel attempted to contact defendant's president after the letter was written to discuss payment, but that his call was not returned. Plaintiffs also note that defendant continues to be delinquent in submitting the monthly reports required by the collective bargaining agreement and that a non-lawyer could not file legal documents on behalf of the defendant.

The Court agrees with plaintiffs that the document submitted by defendant cannot be considered an objection to the Report and Recommendation because it was submitted on behalf a corporation but not signed by an attorney, a practice which is not permitted. *See Board of Trustees of the Ohio Laborers' Fringe Ben. Programs v. D&D Foundation Supply, Inc.*, 2007 WL 3005576 (S.D. Ohio October 12, 2007)(Sargus, J.). Additionally, it sets forth no legal

objection to the recommendation and does not dispute the amounts which plaintiffs claim to be owed. For those reasons, to the extent that the letter might be construed to be an objection, the objection (#17) is **OVERRULED** and the Report and Recommendation (#15) is **ADOPTED AND AFFIRMED**. The Clerk is directed to enter a supplemental judgment against defendant in the amount of \$5,744.73. The motion for contempt filed by plaintiff (#8) is **DENIED AS MOOT**.

IT IS SO ORDERED.

6-7-2011
DATE



EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE